

ATTACHMENT A

**COMMENTS ON THE DRAFT
ENVIRONMENTAL ASSESSMENT ADDENDUM
AND MITIGATION ACTION PLAN FOR THE
PROPOSED TITLE TRANSFER OF PARCEL ED-1**

Perry, Walter N

From: Ed Sonder [exs@ornl.gov]
Sent: Thursday, June 13, 2002 1:51 PM
To: NEPA (Stakeholders comments mailbox)
Subject: Parcel ED1

The Oak Ridge reservation has unusually rich bio-diversity and as such should become a permanent preserve. Removing of a few SMALL parcels from the periphery might be justified, but continuous whittling away of large areas for development will destroy the value of the reservation as a permanent natural preserve.

Therefore, as a citizen and resident of Oak Ridge I urge that the transfer to CROET of parcel ED1 be accompanied by at least the two following actions.

1) PERMANENT Natural area protection of the 531 area exclusion zone. This could be accomplished, for example, by donating a conservation easement for this zone to an organization such as the nature Conservancy.

2) The 45 acres, labeled Parcel 4, should be added to the 531 acre exclusion zone, as suggested by AFORR.

Sincerely,

Edward Sonder
102 Woodridge Lane
Oak Ridge TN 37830

Perry, Walter N

From: MarcyRReed@aol.com
Sent: Friday, June 14, 2002 1:21 PM
To: NEPA (Stakeholders comments mailbox)
Subject: Comments on Draft EA and MAP for proposed transfer of parcel ED-1

I am submitting these comments on behalf of TCWP. They are also attached as a MS Word file.

Thank you,
 Marcy Reed
 Executive Director
 865-481-0286

Tennessee Citizens for Wilderness Planning

Comments on Draft Environmental Assessment Addendum and Mitigation Action Plan for Proposed Transfer of Parcel ED-1 to the

Community Reuse Organization of East Tennessee – May 2002

These comments are submitted on behalf of Tennessee Citizens for Wilderness Planning (TCWP), a 500-member, non-profit organization dedicated to protecting natural lands and waters through public ownership, legislation, and cooperation with the private sector.

TCWP remains strongly in favor of a comprehensive land use plan and assessment for the Oak Ridge Reservation (ORR), a plan that will include the **entire** Reservation. Piece-meal development does not thoroughly evaluate cumulative impacts on the rich biodiversity of the ORR. Because of this, an Environmental Impact Statement or similar process is still needed for the entire ORR. Such a plan and evaluation should include cost/benefit analysis of development initiatives on the ORR. While TCWP supports the ongoing Land Use Planning Process that is being carried out by the Land Use Focus Group, the area of study for this process has been limited to surplus land in the northwestern section of the ORR. Thus, this otherwise commendable process cannot achieve the goal of cumulative impact assessment.

1. The Addendum includes an extensive section on cumulative impacts that enumerates current and planned activities in the area. However, the perspective of this section is only the pertinence of these actions to the single transfer of ED-1. The cumulative impacts to the value and missions of the ORR are not evaluated. In fact, in lines 12-14 of Sect. 5.2, the Addendum uses the additional activities to downplay the impacts of the single ED-1 transfer: "Overall, the proposed transfer of Parcel ED-1 would not have a large incremental impact on the environment when added to the other past, present, and reasonably foreseeable future actions discussed in Sect. 5.1." Similarly, Sect. 5.2.1 notes, "Because the total area is small compared to the remaining ORR land, the change in land use would result in negligible cumulative land use impacts." These statements attempt to justify continued whittling away of the ORR in small pieces without true cumulative impact assessment. This approach is a violation of the National Environmental Policy Act.

2. Permanent protection for the Natural Area of ED-1 is vital. Protection of this area was a primary mitigating action leading to a Finding of No Significant Impact (FONSI) for ED-1 in 1996, and DOE is responsible for assuring continued protection. The Environmental Assessment (EA) and Mitigation Action Plan (MAP) are extremely vague regarding how the deed transfer would ensure this continued protection.

It is our understanding that deed restrictions are difficult and costly to enforce. Only the previous owner, in this case DOE, is legally entitled to assert violation of the deed restriction, and redress typically is restricted to re-purchase of the lands and buildings at current market value. Under the deed-restriction scenario, DOE would need to continue monitoring to discover any violations, take legal action against new owner(s), and bear the cost of such actions. In addition, deed restrictions can be subsequently dropped, as has been observed recently with the transfer of the Boeing land.

To provide protection in perpetuity for the Natural Area, the recommended vehicle is a fee-title-type transfer via donation of the land

6/17/02

to an agency or organization (e.g., The Nature Conservancy) that is equipped to manage land for conservation purposes. An acceptable alternative is donation of a conservation easement to such an entity. The land transfer or easement should not relieve the owners of ED-1 development areas of clearly defined and enforceable requirements to prevent damage to the Natural Area.

3. TCWP is concerned that the slow pace of leasing the development area is not being adequately factored into assessment of impacts on the Natural Area. Section 4 of the Addendum notes that the "majority of the impacts have already occurred on the parcel as a result of construction activities," whereas only 85 of the 426 acres for development have been disturbed to date. Considerable additional activity, with high potential for deleterious impacts, remains. Monitoring requirements must cover the entire period of construction, and monitoring procedures must specify mechanisms capable of determining that all requirements are met.
4. The apparent impact of siltation from an exposed construction area on the population of the Tennessee Dace in Dace Branch during a 1999 storm event is of concern. While the Addendum conveys the expectation that the population will recover, based on discovery of a population upstream from construction influence, this setback is evidence that reliance on existing measures is not well founded and that constant vigilance, as well as advancements in the prevention of construction impacts, is needed.
5. The MAP is vague and provides no oversight or accountability of CROET. Much is left to the discretion, interpretation, and "good faith effort" of CROET. The MAP needs to clearly outline specific requirements, enumerate report recipients and reviewers, and require public participation in reviews and on the advisory panel. The advisory panel should be mandatory.
6. Language in MAP Sect. 3.1.3 is weak with respect to native plants and minimizing lawn areas. Already non-native plants are being incorporated into the landscape in developed areas. Quantifiable requirements for minimizing land area disturbed at any one time are needed.
7. TCWP supports the recommendation of the Advocates for the Oak Ridge Reservation (AFORR) to exclude the 45-acre Parcel 4 from development and add it to the Natural Area. This recommendation is based on the isolation of this parcel from the other development areas, which would entail the need to provide development access by constructing a bridge and/or undertaking damaging road improvement to an existing greenway. The economic value of developing Parcel 4 cannot possibly justify the environmental impact of these actions.
8. TCWP also supports the AFORR recommendation to modify the MAP to include the documented recent presence of the Cerulean Warbler adjacent to and within the ED-1 Natural Area. This species is currently listed by the State as "In Need of Management," and state and federal reviews for upgrading its protection status are in progress. The presence of this species and its location within the tract further support the exclusion of Parcel 4 from development.

TCWP appreciates the opportunity to convey these comments and welcomes questions and further discussion.

Tennessee Citizens for Wilderness Planning
Comments on Draft Environmental Assessment Addendum and Mitigation Action Plan
for Proposed Transfer of Parcel ED-1 to the
Community Reuse Organization of East Tennessee – May 2002

These comments are submitted on behalf of Tennessee Citizens for Wilderness Planning (TCWP), a 500-member, non-profit organization dedicated to protecting natural lands and waters through public ownership, legislation, and cooperation with the private sector.

TCWP remains strongly in favor of a comprehensive land use plan and assessment for the Oak Ridge Reservation (ORR), a plan that will include the *entire* Reservation. Piece-meal development does not thoroughly evaluate cumulative impacts on the rich biodiversity of the ORR. Because of this, an Environmental Impact Statement or similar process is still needed for the entire ORR. Such a plan and evaluation should include cost/benefit analysis of development initiatives on the ORR. While TCWP supports the ongoing Land Use Planning Process that is being carried out by the Land Use Focus Group, the area of study for this process has been limited to surplus land in the northwestern section of the ORR. Thus, this otherwise commendable process cannot achieve the goal of cumulative impact assessment.

1. The Addendum includes an extensive section on cumulative impacts that enumerates current and planned activities in the area. However, the perspective of this section is only the pertinence of these actions to the single transfer of ED-1. The cumulative impacts to the value and missions of the ORR are not evaluated. In fact, in lines 12-14 of Sect. 5.2, the Addendum uses the additional activities to downplay the impacts of the single ED-1 transfer: "Overall, the proposed transfer of Parcel ED-1 would not have a large incremental impact on the environment when added to the other past, present, and reasonably foreseeable future actions discussed in Sect. 5.1." Similarly, Sect. 5.2.1 notes, "Because the total area is small compared to the remaining ORR land, the change in land use would result in negligible cumulative land use impacts." These statements attempt to justify continued whittling away of the ORR in small pieces without true cumulative impact assessment. This approach is a violation of the National Environmental Policy Act.
2. Permanent protection for the Natural Area of ED-1 is vital. Protection of this area was a primary mitigating action leading to a Finding of No Significant Impact (FONSI) for ED-1 in 1996, and DOE is responsible for assuring continued protection. The Environmental Assessment (EA) and Mitigation Action Plan (MAP) are extremely vague regarding how the deed transfer would ensure this continued protection.

It is our understanding that deed restrictions are difficult and costly to enforce. Only the previous owner, in this case DOE, is legally entitled to assert violation of the deed restriction, and redress typically is restricted to re-purchase of the lands and buildings at current market value. Under the deed-restriction scenario, DOE would need to continue monitoring to discover any violations, take legal action against new

owner(s), and bear the cost of such actions. In addition, deed restrictions can be subsequently dropped, as has been observed recently with the transfer of the Boeing land.

To provide protection in perpetuity for the Natural Area, the recommended vehicle is a fee-title-type transfer via donation of the land to an agency or organization (e.g., The Nature Conservancy) that is equipped to manage land for conservation purposes. An acceptable alternative is donation of a conservation easement to such an entity. The land transfer or easement should not relieve the owners of ED-1 development areas of clearly defined and enforceable requirements to prevent damage to the Natural Area.

3. TCWP is concerned that the slow pace of leasing the development area is not being adequately factored into assessment of impacts on the Natural Area. Section 4 of the Addendum notes that the "majority of the impacts have already occurred on the parcel as a result of construction activities," whereas only 85 of the 426 acres for development have been disturbed to date. Considerable additional activity, with high potential for deleterious impacts, remains. Monitoring requirements must cover the entire period of construction, and monitoring procedures must specify mechanisms capable of determining that all requirements are met.
4. The apparent impact of siltation from an exposed construction area on the population of the Tennessee Dace in Dace Branch during a 1999 storm event is of concern. While the Addendum conveys the expectation that the population will recover, based on discovery of a population upstream from construction influence, this setback is evidence that reliance on existing measures is not well founded and that constant vigilance, as well as advancements in the prevention of construction impacts, is needed.
5. The MAP is vague and provides no oversight or accountability of CROET. Much is left to the discretion, interpretation, and "good faith effort" of CROET. The MAP needs to clearly outline specific requirements, enumerate report recipients and reviewers, and require public participation in reviews and on the advisory panel. The advisory panel should be mandatory.
6. Language in MAP Sect. 3.1.3 is weak with respect to native plants and minimizing lawn areas. Already non-native plants are being incorporated into the landscape in developed areas. Quantifiable requirements for minimizing land area disturbed at any one time are needed.
7. TCWP supports the recommendation of the Advocates for the Oak Ridge Reservation (AFORR) to exclude the 45-acre Parcel 4 from development and add it to the Natural Area. This recommendation is based on the isolation of this parcel from the other development areas, which would entail the need to provide development access by constructing a bridge and/or undertaking damaging road improvement to an existing

greenway. The economic value of developing Parcel 4 cannot possibly justify the environmental impact of these actions.

8. TCWP also supports the AFORR recommendation to modify the MAP to include the documented recent presence of the Cerulean Warbler adjacent to and within the ED-1 Natural Area. This species is currently listed by the State as "In Need of Management," and state and federal reviews for upgrading its protection status are in progress. The presence of this species and its location within the tract further support the exclusion of Parcel 4 from development.

TCWP appreciates the opportunity to convey these comments and welcomes questions and further discussion.

Perry, Walter N

From: Warren Webb [WebbWarren@msn.com]
Sent: Sunday, June 16, 2002 5:44 PM
To: NEPA (Stakeholders comments mailbox)
Subject: Comments on ED-1

Following below and attached as a WordPerfect file are comments on the proposed action. Please consider them in your analysis.

Comments on the "Draft EA Addendum for the Proposed Transfer of Parcel ED-1 to the Community Reuse Organization of East Tennessee" (DOE/EA-1113-A)

Submitted by: Warren Webb

228 West Tennessee Ave

Oak Ridge, TN 37830

June 13, 2002

General Comments

1. This is a major federal action significantly affecting the human environment, requiring an EIS. This is particularly so since the proposal is to transfer land, including custodianship of a sizeable natural area, to a development entity, with meaningful restrictions and enforcement provisions (deed restrictions notwithstanding). Instead, DOE has elected to issue an "EA Addendum." Please explain what is a "Draft EA Addendum" as a National Environmental Policy Act (NEPA) document under CEQ and DOE regulations. The DOE issued an EA for an action that should have been an EIS. The result of that was a "mitigated FONSI" – itself a somewhat strange creature – which has been subsequently violated (see comments below), and now we have this other strange creature. The document, whatever it is, should put this all in context for members of the public.
2. Please explain why you have evaluated only one alternative (dismissing the no action alternative) in contravention of the National Environmental Policy Act. Other reasonable alternatives are possible: ceding/selling a portion of the land to other entities; ceding/selling the parcel to the City of Oak Ridge; returning the parcel to DOE management.
3. Please explain how the original Mitigation Action Plan (MAP) transformed into the MAP that you present here. The original MAP did not allow for the roads and bridges that have been built. The Comprehensive Development Plan presented and partially implemented by CROET was not submitted for public review and was not appropriately reviewed by state agencies, as shown by your own documents.

6/17/02

4. The preparers are not given – although this has not been presented as an EIS (as it should have been) – it has been put out for public comment, and the public has a right to know who the preparers are and what are their qualifications.

Specific Comments

1. Section 1.1: DOE's need poses an unanswered question – would the transfer of ED-1 to CROET "help offset economic losses . . ." Because this has been postulated in this section, it is incumbent on DOE to analyze this question in the EA. At present, it does not. Please explain.

2. Section 1.2 states (lines 18- 20) that "The MAP accomplished this by excluding areas . . . from disturbance and development . . ." In fact, two large roads/bridges were put across the "Exclusion Area." – I would call this "disturbance and development." Please explain what public and agency reviews were accomplished before undertaking these actions, and address the potential environmental impacts of such actions in the body of your report. Please also reference Annual Reports subsequent to 1998.

3. Section 2, paragraph 2 (line 11). This paragraph is based solely on CROET's alleged information to DOE, which is not supplied. Are we (the public) really supposed to believe this? Please supply the information that CROET shared with you which would help us understand the economic consequence of the action for the community.

4. Section 2, paragraph 3, lines 21 et seq. Several options are mentioned in this paragraph which should be considered as alternatives in the "EA Addendum." Transfer of the "Exclusion Area" to another entity is of particular interest. Why is this option not considered further?

5. Section 2, paragraph 4, lines 31 et seq. This paragraph states the continued development would be conducted outside of the Natural Area. How will CROET accomplish this while gaining access to Area 4? Please explain.

6. Section 2, paragraph 5, lines 36 et seq. Please explain how deed conditions would be enforced by DOE. It seems unlikely that DOE would have the resources or the motivation to enforce any deed restrictions.

7. Section 3.2, paragraph 1. You state that "development plan concepts" were "discussed" with TWRA and other entities. Although these discussions may have been "approved by DOE," that does not in itself constitute approval by agencies. Please supply discussion and agency comments to support your contention that all parties approved of this action, or, if not, what were objections or unresolved issues.

8. Section 3.3: Here you present a lot of data, because they are available. Yet you have nothing to say about it in the "Environmental Consequences" section. In the "Purpose and Need" section, you said that economic issues were paramount. Please explain how you can omit analysis of the data you present in this section in the Environmental Consequences section.

9. Section 4: almost all of two pages are devoted to the environmental consequences of this significant federal action. DOE seems to think that no other issues arise other than listed species and cultural resources. In fact, significant socioeconomic effects could arise, as well as impacts to neotropical migratory birds and other species. Statements that no further intrusions into the natural area (e.g., page 12 lines 21-22) are not convincing if CROET intends to gain access to Area 4. An alternative would be to develop the existing road on the west boundary, but this would itself further fragment forested habitat for birds and other animals and would

destroy a large portion of an existing greenway. Please add an evaluation of these eventualities.

10. Section 4, page 12, lines 28-31: The final paragraph to the introduction of Section 4 states the "DOE has determined that no additional impacts would occur with transfer of the parcel beyond those presented in . . . the 1996 EA." In fact, impacts beyond the 1996 may already have occurred or be occurring. This is because the 1996 EA, and the MAP which accompanied the "mitigated FONSI," did not contemplate the significant incursions into the then Exclusion Zone (now Natural Area) which were subsequently implemented without effective public and agency review (the Comprehensive Development Plan prepared by Lockwood Greene for CROET.) The record from Annual Reports shows that at least one agency raised issues which were never resolved. That notwithstanding, the development plan proposed two significant bridges and other roadway fragmentations of natural area corridors which have never been evaluated for impacts. Thus, DOE should not rely on the 1996 EA to dismiss impacts but should evaluate unanticipated impacts that would be carried over under the proposed action. Please explain how these subsequent inadequately reviewed effects would carry over to the proposed action, or its as yet unanalyzed alternatives.

11. Section 5.1: DOE spends almost all of three pages (more than the attention paid to Environmental Consequences) listing many other projects that may affect the proposed action. Interestingly, some analysis follows of socioeconomic impacts that may accrue from these projects (which are not evaluated in Section 4), yet no attempt is made to place this analysis relevant to the project. Without such analysis, this is simply a waste of paper. Please explain how the cumulative effects of other actions, including socioeconomic effects, would interface with this proposed action.

12. Section 5.2.5, page 20, lines 29 - 34 : These statements seem to imply that because "large areas" would remain (not a certain conclusion), the impacts of the proposed action are of no consequence and need not be evaluated. Please explain the reasoning supporting these statements.

Comments on the "Mitigation Action Plan for the Proposed Transfer of Parcel ED-2 to the Community Reuse Organization of East Tennessee, accompanying the "Draft EA Addendum for the Proposed Transfer of Parcel ED-1 to the Community Reuse Organization of East Tennessee" (DOE/EA-1113-A)

1. Please give the names and qualifications of the various individuals conducting the bird surveys from which you produced your graphs.

2. Please present a discussion of how your analysis compares to trend analysis as described by the USGS.
3. Please present the data regarding corvids and nest parasites, and evaluate how these could affect bird breeding in the area (e.g., changing from a source area to a sink area). There is also the possibility of increased access of other nest predators, such as raccoons and skunks, which has not been evaluated here or in the "EA Addendum."

Memorandum

To: David Allen, Nancy Carnes, Katy Kates

CC: File-SMC

From: Susan Cange

Date: June 19, 2002

Re: Additional Comments on DOE/EA-1113-A, EA Addendum and Mitigation Action Plan for
Proposed Transfer of Parcel ED-1 to CROET

Below is a listing of additional comments submitted on the above subject document. Attached are copies of comments for your files.

1. Ed Sonder, June 13, 2002
2. Marcy R. Reed, on behalf of Tennessee Citizens for Wilderness Planning, June 14, 2002
3. Warren Webb, June 13, 2002
4. Herbert L. Harper, Executive Director and Deputy State Historic Preservation Officer,
Tennessee Department of Environmental and Conservation, May 24, 2002

If you have questions, please call me at 576-0334.

Susan:af-d

Attachments: As Stated



TENNESSEE HISTORICAL COMMISSION
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
2941 LEBANON ROAD
NASHVILLE, TN 37243-0442
(615) 532-1550

May 24, 2002

Mr. David Allen
Department of Energy
Oak Ridge Operations Office
Post Office Box 2001
Oak Ridge, Tennessee 37831

RE: DOE, DRAFT ENVIRONMENTAL ASSESSMENT ADDENDUM, TRANSFER OF PARCEL
ED-1 TO CROET, OAK RIDGE, ROANE COUNTY, TN

Dear Mr. Allen:

At your request, our office has reviewed the above-referenced draft environmental assessment addendum in accordance with regulations codified at 36 CFR 800 (Federal Register, December 12, 2000, 77698-77739). Based on the information provided, and in accordance with our previous review of the archaeological survey of the area of potential effect, we find that the project area, as currently defined, contains no archaeological resources eligible for listing in the National Register of Historic Places.

This office has no objection to the implementation of this project. However, prior to transfer, and in accordance with our correspondence of April 29, 2002; please submit the proposed final deed restrictions to this office for our review and comment. If project plans are changed, please contact this office to determine what further action, if any, will be necessary to comply with Section 106 of the National Historic Preservation Act.

Your cooperation is appreciated.

Sincerely,

Herbert L. Harper
Executive Director and
Deputy State Historic
Preservation Officer

HLH/jmb

OFFICIAL FILE COPY
AMESQ

Log No. 603093

Date Received JUN 3 2002

File Code _____



June 13, 2002

Mr. David Allen, SE-30
U.S. Department of Energy
P.O. Box 2001
Oak Ridge, Tennessee 37831-2001

Subject: Comments Regarding the Environmental Assessment Addendum for Parcel ED-1

Dear Mr. Allen:

I have read with great interest the Environmental Assessment Addendum for Parcel ED-1 and would like to make the following comments.

The site should be transferred to the Community Reuse Organization of East Tennessee (CROET) as quickly as possible and with as few restrictions as possible. The development of ED-1, the related environmental issues and this transfer have been well publicized to a broad and diverse audience. The DOE effort for expeditious transfer of the property with adequate review should be applauded.

The purpose of the transfer is equally clear. It is essential that the area have a strong industrial base that augments and supports the existing DOE missions, and helps the region lessen the region's economic dependence on the Department of Energy's annual appropriations. That requires first class industrial facilities like those on Parcel ED-1 and ongoing partnerships between the Department and the community on a number of related activities.

We believe that the requirements for environmental monitoring should be simplified. The ultimate users of the park, new industries to our region, should be guided by the zoning codes of the community and the development covenants incorporated into the center's by-laws. Each requires protections of the environment and development of quality spaces.

The mission of the CROET is to bring in new companies and jobs to the region. The requirements within the Addendum seem to force the organization to become something that it is not, and mandate expenses not covered in the organization's mission. If taken to an extreme, the requirements regarding environmental monitoring and stewardship could make the mission of CROET impossible. We believe that all requirements that are not absolutely essential to the maintenance of the few threatened or endangered species on the site be removed.

Thank you for the opportunity of commenting on this most important issue.

Sincerely,

Jim Campbell
President, East Tennessee Economic Council

OFFICIAL FILE COPY
AMESQ

Log No. 126094

Date Received JUN 19 2002

File Code _____



Community House Organization
of East Tennessee

A FACSIMILE TRANSMITTAL

DATE: 6.13.02

TO: David Allen FAX: 576-0746

107 Elm Way

P.O. Box 2110

Oak Ridge, TN 37831-2110

phone: 865.482.0000

fax: 865.482.3801

FROM: Andrea

SUBJECT: E-A for Parcel ED-1

NO. OF PAGES (INCLUDING THIS SHEET) IS: 6

COMMENTS:

www.croet.com
info@croet.com

This facsimile contains PRIVILEGED and CONFIDENTIAL information intended only for the specific individual or organization named above. If you are not the intended recipient, notice is hereby given that any dissemination or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above address via U.S. Postal Service. Thank you.

WFS\SHARLEFORMS\LINK FAX SHEET.WPD

David R. Allen

U.S. Department of Energy

SE-30-1

P.O. Box 2001

Oak Ridge, TN 37831

OFFICIAL FILE COPY
AMERQ

Log No. 66099

Date Received JUN 19 2002

File Code

The following are my comments on the Parcel ED-1 documents;

Environmental Assessment Addendum

- Please provide copies of the deed and transfer agreement to interested stakeholders. The ED-1 documents must not be finalized and the transfer of the property to CROET must not be completed until stakeholders have had the opportunity to review and comment on the deed and transfer agreement. The agreement is part of the NEPA action and thus subject to public comment.
- What is the "regulatory process" (p12 of the MAP) that enforces the deed restrictions and transfer agreement. PLEASE DESCRIBE
- Who is responsible for ensuring protection of natural, historic, and archaeological resources if CROET ceases to exist. Please discuss options.
- Will deed restrictions be included/transferred to new owners when CROET lands are sold?

- Who is responsible for oversight of new owners activities and their potential impact on the natural, historic, and archaeological resources?
- Who is responsible for development of infrastructure following transfer of ownership to CROET?
- How much does CROET expect to realize on the sale of the 426 acres of land available for development?
- What are the anticipated costs of additional infrastructure for development of the 426 acres? Please itemize.
- What can the city expect in property and other taxes from development? Please provide estimates of dollar amounts at 2, 5, and 10 year intervals.

With regard to the Mitigation Action Plan^(MAP):

- When property is sold by CROET who is responsible for ^{MAP} monitoring/reports?
- Who is responsible for oversight of the MAP requirements?

- Will MAP reports be available to the public?
- Will the public be informed of the availability and location of MAP reports? Please note location of reports.
- Where and when will the public find CROET's plans for ".... continuing to preserve and maintain the integrity of the Natural Area" (page 11 of the MAP)?

Thank you for your attention to these concerns.

Lorene L. Sigal

112 Parma Road

Oak Ridge, TN 37830

Tel. and FAX 482-4125

Note: While the EA Addendum (page 6) states that

"... no other parcels of sufficient size and contiguity were available on the ORR to meet the requirements for an industrial park.",

this statement is misleading because there are other large tracts of industrial land

adjoining/near the ORR (e.g., the TVA "Breder Reach" land, Roane Regional Business & Technology Park).

Log No. 66/01
JUN 19 2002

Comment on the May 2002
Environmental Assessment Addendum
for the
Proposed Transfer of Parcel ED-1
to the Community Reuse Organization of East Tennessee

File Code _____

June 14, 2002
Robert Peelle, 130 Oklahoma Avenue, Oak Ridge, TN 37830

SUMMARY: The proposed action involves a significant chunk of the present reservation, and is an environmentally important federal action! Its assessment must be treated seriously.

The mitigation of environmental degradation of the "exclusion" or "natural" area of ED-1 is unlikely to be effective over the life of the Horizon Center industrial park because of the general ineffectiveness of deed restrictions over extended periods. Also, under plausible circumstances local employment might be reduced by the proposed action.

These difficulties would be ameliorated if the CROET lease period were instead extended to 99+ years. However, if the property is to be transferred to CROET, land not yet sold should revert to the Department of Energy in case CROET should ever demise or fail to care for or utilize the land as agreed at the time of transfer. In any case, the Natural Area portion should not be transferred to any economic development group.

The transfer of ED-1 has quite different environmental consequences from the current lease program, since the large tract of largely open land will permanently reduce the productivity of the nearby woodland and stimulate the spread of open-land pests such as the fire ant. The EA Amendment for the proposed transfer should recognize this long term difference

COMMENTS on the Proposed Actions that require EA Amendment analysis

Figure 1.1 of the EA Amendment illustrates what a large area is being considered, and by inference the importance of any decision on transfer. Text of the draft suggests, tacitly in most cases, that the matter being considered is not very important! The eventual extent of the cleared land will affect life in all the surrounding lands and make the reservation less of a unique area. The pesky species found on cleared land will benefit. Will economic or other benefits outweigh this loss? The effective permanence of a land transfer places the decision in bold relief.

The desirability of the subject project is based in part on assumptions that:
(1) the site is surplus to DOE's future needs,
(2) CROET is eligible to receive priority for below-market land transfer from the DOE,

(3) the site will attract firms that will provide substantial employment and tax base increments,

(4) CROET will prosper sufficiently to enable it to carry out its environmental responsibilities under the land transfer agreement,

(5) the DOE will diligently enforce "deed restrictions" to protect the Natural Area as described in the EA Amendment, and

(6) future title transfers (from CROET) will include the same restrictions and be enforced.

The validity of each of these assumptions is in doubt, or at least the validity is not demonstrated in the EA Amendment. The last three seem important to this assessment and must be discussed. Assumption (3) is pertinent because, if little business locates in ED-1, the small benefit could not outweigh the stated environmental costs. [Data must exist on how frequently well executed industrial parks are unsuccessful.] Assumption (2) need not be discussed in this EA, but the reference to the transfer authority should be specific for an organization such as CROET. Assumption (1) appears to be outside an EA analysis, except for the possibility discussed in the next paragraph.

Energy sufficiency will remain a serious concern in our country, so energy research, development, and demonstration projects will continue to be placed on federal lands from time to time. Transfer of ED-1 may preclude a substantial federal project that otherwise would use this site. Unless ED-1 sales to business and industry are brisk, these businesses might produce less economic value than the federal project. Thus, the socioeconomic effect of the ED-1 transfer could in the end be negative! The DOE determination that the land is surplus was necessarily based on known or explicitly considered programmatic demands, while the projects that will seem imperative by 2020 are unknown now even to futurists. The alternative of leasing ED-1 to CROET for 99+ years should be considered in the EA.

The EA assumes that restrictions within the deed transferring ED-1 to CROET can assure long-term protection of the Natural Area now excluded from development. I believe this protection is illusory for the reasons below:

a. Long term, CROET or its successors cannot give priority to a function that may sometimes conflict with the economic development mission.

b. The costs of monitoring and protecting the 531-acre Natural Area will seem considerable when land sales are slow. The financial structure and prospects of CROET must be considered in the EA Amendment, and are much more important to the present issue than city or county finances. While current CROET management surely intends to fulfill any transfer agreement, the foundation of CROET in federal grants could place their future in jeopardy.

c. The Register of Deeds office does not enforce deed restrictions! DOE or successor agencies would have to enforce these restrictions consistently. This housekeeping responsibility is not likely to be given priority for long.

d. Should CROET demise, the efficacy of deed restrictions is further questioned. Following a second land transfer such restrictions have not generally proved effective. (Mary English, UT EERC, 1999)

Since deed restrictions cannot assure performance, DOE should pursue one of the following alternatives if the developable acreage is to be transferred:

a. DOE should retain at least the 531 acre Natural Area. [Why would CROET risk owning the East Fork Poplar Creek flood plain with the CERCLA liabilities that would occur if contamination from Y-12 is discovered there?] Preferably, DOE should further reduce negative impacts by retaining some or all of the land CROET has not yet disturbed.

b. Transfer the Natural Area to an agency or organization involved with land conservation or a related goal like wildlife management.

c. Make all land transfers to CROET with a reversion clause that would return the land to DOE or the successor agency if CROET should demise, not meet the restrictions on the natural area, or fail to carry out its stated goals. (for example, by proposing to sell ED-1 for a water park.)

The EA must recognize the limited effectiveness of deed restrictions and the environmental consequences of these limitations.]

My own perusal of the MAP for the transfer to CROET shows it is intended carefully to prevent significant adverse environmental impacts of the transfer. However, I believe experience over the country has shown that over time deed restrictions, easements, and similar instrument are often unenforceable. I therefore believe that following this plan would preclude issuance of a Finding of No Significant Impact for the transfer. Early implementation of transfer of the developable land requires another mechanism.

I believe using a reversion clause is the most reliable, next to substituting a 99+ year lease. Research on the effectiveness of reversion clauses is warranted.

Comment on EA details that require little analysis.

At the beginning of section 3.4.2 it is unclear what the initial water source for ED-1 would be, and the expected availability of this source until long -term connections can be completed to the city system.

In 3.4.3, a statement is needed about the expected future viability of the ETTP wastewater plant, since the connection to Oak Ridge municipal plant may be long delayed. Are industries that would require pretreatment of waste excluded from ED-1?

The EA Amendment in section 4 does not yet cover the environmental damage incident to the bridges over the creek. Will the MAP control such damage?

In section 5.1, discussions about Rarity Ridge, Rt. 58 expansion, and perhaps others need to be updated.

Section 5.2.3 treats employment impacts in a cavalier manner. The conclusion as stated is likely correct (growth rate within historical limits), but that is very small

comfort. Socioeconomic impacts were very large 1943-50. Better limit the historical period for the comparison.

Robert P. Zelle
483-8974

DAVID L. COFFEY

122 CALDWELL DRIVE OAK RIDGE, TENNESSEE 37830
TELEPHONE OR FAX 423-483-6487 E-MAIL: 76226.1622@COMPUSERVE.COM

June 17, 2002

Mr. David Allen, SE-30
U. S. Department of Energy
P. O. Box 2001
Oak Ridge, TN 37830-2001

Dear Mr. Allen:

I appreciate this opportunity to comment on the Environmental Assessment Addendum for Parcel ED-1.

Your actions toward transferring this parcel to the Community Reuse Organization of East Tennessee are very much in keeping with the intent of Congress to alleviate economic impacts from federal government downsizing in East Tennessee.

Toward that end, I believe it is important to minimize restrictions and the appearance that this property will be an ongoing environmental research laboratory. Certainly we have many hundreds of acres in the western Oak Ridge area already devoted to those activities.

From my own industry experience I feel strongly that any hint that this industrial site would be treated as an ORNL environmental study area would be reason enough for a prospect to search elsewhere.

This is not to suggest that environmental restrictions should be relaxed. There are adequate controls in law and regulations to assure respect for the land, water and air.

However, it would be absurd to meddle in the affairs of a prospect by specifying overly restrictive landscape and access limits. Rather, we should encourage the area to be developed as a park-like setting for responsible corporate citizens.

Parcel ED-1 has been thoroughly monitored throughout its development. I trust that you will do all that you can to allow it now to become a successful industrial site.

Sincerely,



David L. Coffey
CROET Chairman

OFFICIAL FILE COPY
AMESQ

Log No. 66092

Date Received JUN 19 2002

File Code



Community Reuse Organization
of East Tennessee

107 Lea Way

P.O. Box 2110

Oak Ridge, TN 37831-2110

phone: 865.482.9890

fax: 865.482.9891

www.croet.com
info@croet.com

June 13, 2002

Mr. David Allen, SE-30
U.S. Department of Energy
P.O. Box 2001
Oak Ridge, Tennessee 37831-2001

OFFICIAL FILE COPY
AMESQ

Log No. 65791

Date Received JUN 17 2002

File Code _____

Subject: Comments Regarding the Environmental Assessment Addendum for
Parcel ED-1

Dear Mr. Allen:

I have read with great interest the Environmental Assessment Addendum for
Parcel ED-1 and would like to make the following comments.

First and foremost, the site should be transferred to our organization as
expeditiously as possible and with as few constraints on its use as possible.
The community and surrounding region are dependent upon the development
of the park as a means of mitigating the ongoing reorganization and attendant
job loss within the Oak Ridge Federal complex.

Towards that end, the development areas should be provided with transferable
indemnification and should be transferred as a de-listed property under
Superfund designation.

We have done an exceptional job of maintaining and even enhancing the
environmental resources of the park while under our stewardship over the past
6 years. The existing Environmental Assessment for this parcel resulted in
monitoring efforts during this time, which have shown, during the most
intensive development period of the park, that there have been no adverse
impacts. This should indicate that we will continue to be exceptional stewards
and that continued long term monitoring is unnecessary.

The nearly 500 acres of natural area provides a significant buffer for any
threatened or endangered species and should preclude the necessity for
extensive on-going monitoring and inspections of these areas.

Mr. David Allen, SE-30

Comments Regarding the Environmental Assessment Addendum for Parcel ED-1

page 2 of 3

The required inspections are redundant and unnecessary and should be required only on an annual basis and should end after 3 years.

CROET should not be held accountable for natural succession within the natural or sensitive areas.

CROET should only be held accountable for any invasive species it is responsible for directly introducing.

The document is written in a manner that could be interpreted as prohibiting activity within the Natural area. Save for the sensitive areas, it should be made clear that there are no restrictions on crossings through the natural area, particularly for the purpose of developing necessary infrastructure extensions.

The prohibition on using non-native grasses for landscaping should be removed.

According to published reports, there are those who would suggest that the natural areas be transferred to an entity other than CROET. It is imperative that the parcel be transferred to CROET in its entirety. This is the only way in which CROET can provide any assurance that the integrity of the sensitive and natural areas will be maintained. Having any other entity control those areas without CROET's complete concurrence would result in a potentially confrontational and unworkable situation that would likely damage our ability to effectively market the developable lots and moreover, to control events within the natural area. As we are responsible, under the current EA and the proposed amended document, for mitigating these areas, should some unforeseen damage occur, having the areas in the control of others is simply unworkable.

We are particularly pleased that DOE has recognized our historic stewardship of this site and proposes that CROET oversee the continued protection of the environmental resources and that we do so without some arbitrary external over-site. As you know, CROET has an extremely inclusive board of directors of 42 individuals that represent collectively, virtually every stakeholder in the region. Our Board meetings are open to the public and there is an opportunity at these meetings for the public at large to comment on any issue relating to CROET. In addition, the meetings are regularly reported on by the news media. It is our intent to report the findings of the continued monitoring of the ecological resources to the Board annually. In this manner, all stakeholders in the region and indeed, nationally, will have either representational or direct access to our ongoing activities.

Lastly, perhaps more than anyone, we recognize the value of the natural area from a ecological and marketability perspective. We have demonstrated our ability and willingness to protect important environmental resources while simultaneously developing a seemingly incongruent adjacent land use. We have done so because it is the right thing to do and because it was a good

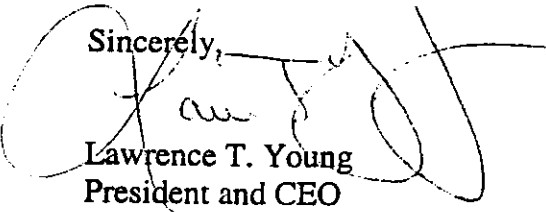
Mr. David Allen, SE-30

Comments Regarding the Environmental Assessment Addendum for Parcel ED-1
page 3 of 3

business decision. The natural area is a key component of our ability to sell the park's developed property to targeted upscale businesses that place high value on aesthetic features such as the stream, the hardwoods and even the fauna. To not protect this resource would be folly.

Thank you for the opportunity of commenting on an item critical to the future of Oak Ridge and our organization.

Sincerely,



Lawrence T. Young
President and CEO

Advocates for the Oak Ridge Reservation

112 Newcrest Lane
Oak Ridge, Tennessee 37830

June 9, 2002

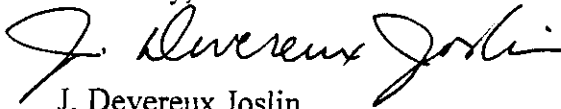
Mr. David Allen
United States Department of Energy
Oak Ridge Operations Office
200 Administration Road
P.O. Box 2001
Oak Ridge, Tennessee 37831

Dear Mr. Allen:

The Advocates for the Oak Ridge Reservation (AFORR) are pleased to offer the enclosed comments to the U. S. Department of Energy concerning the proposed transfer of Parcel ED-1 to the Community Reuse Organization of East Tennessee.

The enclosed comments are our combined reactions to both the EA Addendum and the corresponding Mitigation Action Plan, entitled, "National Environmental Policy Act Environmental Assessment Addendum and Mitigation Action Plan for the Proposed Transfer of Parcel ED-1 to the Community Reuse Organization of East Tennessee."

Sincerely,



J. Devereux Joslin

President

Advocates for the Oak Ridge Reservation
112 Newcrest Lane
Oak Ridge, TN 37830

Enclosure

OFFICIAL FILE COPY
AMESQ

Log No. 64904
Date Received JUN 11 2002
File Code _____

Comments on DOE/EA-1113-A Draft May 2002
"Environmental Assessment Addendum and Mitigation Action Plan
for the Proposed Transfer of Parcel ED-1 to the Community Reuse
Organization of East Tennessee"

1. DOE needs to provide an effective mechanism for protecting the exclusion zone.

AFORR's primary concern with this assessment stems from the total absence of specificity in the report concerning how protection will be achieved for the existing "Natural Area" or "Exclusion Zone" mandated in the original Mitigation Action Plan. The current addendum simply states, "Conditions of the deed and transfer agreement would ensure that CROET continued to provide protection..." But the assessment never states how this will be accomplished.

We infer (from the text of the draft EA Addendum and draft revised MAP) that DOE intends to institute a deed restriction to prohibit future owners from encroaching upon the Exclusion Zone. We have serious concerns about this approach. A deed restriction is not an effective mechanism to accomplish the objective of permanent protection. Deed restrictions generally can be enforced only by the seller (i.e., DOE) taking the property back. No one else can enforce the restriction, and there are no less momentous mechanisms of enforcement. We think that it would be cumbersome for DOE to continue to monitor the situation for violations and we think that DOE would be unlikely to have the will or the resources to act to reclaim the property, particularly if it was necessary to compensate the owner for the current commercial value of the land and improvements, particularly if the violation is not one of major proportions. A deed restriction would not be an effective mechanism for protecting the area.

RECOMMENDATION:

AFORR's primary concern with this proposed action is the need for an effective mechanism to ensure protection for the existing "Natural Area" or "Exclusion Zone," mandated in the original Finding of No Significant Impact (FONSI) and Mitigation Action Plan (MAP) as one of the main mitigation measures necessary for the FONSI.

The most effective immediate alternative would be retention of ownership by DOE, with the establishment of a Conservation Easement over the Exclusion Zone, with monitoring and management to be conducted under an appropriate arrangement.

Eventually, DOE could choose to transfer the entire Natural Area to an agency or organization that is equipped to manage it for conservation purposes. This is only fitting since conservation of natural and cultural resources was the original reason for setting up this zone in the original NEPA document (see 10 CFR 1021.331).

2. DOE needs to provide enforceable mechanism to ensure that private owners will fulfill their obligations to meet mitigation commitments

In addition to ensuring that development does not encroach on the Exclusion Zone, AFORR is concerned about the need for an enforceable mechanism to ensure that CROET or its successors fulfill their obligations for environmental monitoring and other

management actions required under the FONSI and MAP. The FONSI was conditioned on continued monitoring and other continuing actions to protect site streams and other natural resources, and AFORR believes that the FONSI requires that DOE establish a mechanism to ensure that these actions are carried out. For example, the landowner could be required to post a bond to ensure its future performance.

3. **Monitoring done to date should not be represented as "Post-Development," and monitoring should be required to continue until development is complete.**

We find the representation of the currently presented monitoring data as a "Summary of Pre- and Post-Development Monitoring (1996-2000)" (Page 5) to be misleading. The goals of The Mitigation Action Plan were "pre- and post-construction assessment of natural succession and impacts of development on natural communities and populations using data collected during monitoring,"

It is clear from the description of construction activities that have taken place to date (see text and Fig 1.2.) that less than 85 acres of the 426 acres designated for developed have been disturbed. Since only about 20 to 25% of the area has been disturbed in the initial 6 years since the site was established, it is clear that any monitoring data collected so far has very little meaning with regard to evaluating the impact of development.

RECOMMENDATION:

To meet the mitigation requirements in the original FONSI and MAP, DOE must ensure a continuing commitment to monitoring during the remainder of the development process and after development is complete. The MAP should spell out clearly what the commitment to future monitoring will be. The purpose of monitoring is (a) to determine the impact of development on natural resources and (b) to determine if future mitigative action will be needed. Clearly, final determinations on these points this cannot be made until after construction activity is completed, but the current MAP does not provide for this to be done.

4. **DOE needs to establish accountability for future monitoring and mitigation by CROET**

The section on page 12, "4. Map Review and Reporting Requirements," clearly spells out when CROET will review the MAP. But this requirement specifies virtually no real actions that must occur at these times. The description even admits that "review could be nothing more than re-reading the MAP to determine if changes are necessary." In fact, there seem to be no requirements in this portion of the plan at all that demand serious accountability.

There is at the bottom of page 12 mention of an "optional" Peer Review Panel, which CROET has complete discretion concerning its establishment. The current

suggested make-up is entirely of governmental agencies, that may or may not have any vested interest in seeing that natural and cultural resources be fully protected.

The CROET lacks institutional expertise on conservation. It operates as a private entity without representative public involvement or oversight, and it has failed in the past to follow some mitigation requirements. Two examples of CROET's failings are the unilateral termination of monitoring after 2000 and the planting of tall fescue, listed as an invasive exotic species in Tennessee, instead of alternative grasses specified in the MAP. Therefore, it is imperative that external review and oversight of mitigation be made a mandatory condition of the transfer, not an optional item..

RECOMMENDATION:

AFORR is concerned that the requirements for MAP review and follow-up are vague and that there are no provisions to assure that CROET fulfills its obligations to mitigation. Requirements for monitoring, review, and follow-up should be made explicit and should include external oversight. We recommend that MAP review and reporting requirements be clearly spelled out. Further, oversight of CROET in MAP Review and Report should be a stated requirement in this document. Finally, this panel should allow for citizen input, especially from representatives of non-governmental organizations that are concerned about natural and cultural resources.

5. **The EA and MAP do not acknowledge or address the adverse environmental impacts of developing 'Development Area 4' of Parcel ED-1. This omission must be corrected, and we recommend that this area be excluded from the proposed transfer and from development under the existing lease.**

"Development Area 4," at the extreme southwest end of Parcel ED-1 (identified in Figure 1.1 of the MAP) is isolated from the rest of ED-1 and separated from the rest of the development by East Fork Poplar Creek and Exclusion Zone areas. The EA does not discuss either how road and utility access could be established to this area or the environmental impacts of such infrastructure development, and the MAP does not discuss measures to mitigate these impacts.

AFORR is concerned that the development of this 45-acre tract could have environmental costs in excess of any economic benefits. We see three possible ways to develop access to this parcel: (1) cut yet another roadway through the Exclusion Zone and build yet another bridge across East Fork Poplar Creek and through its floodplain, (2) develop an access corridor from Blair Road on the southwest, crossing the Tennessee Valley Authority (TVA) property and Poplar Creek. or (3) convert the existing one-lane gravel access road (currently open to the public as a portion of the Oak Ridge North Boundary Greenway Trail) that winds through the Oak Ridge Reservation between McKinney Ridge and East Fork Poplar Creek into a highway.

All of these access methods would have significant environmental and economic costs. Option 1, a new bridge, would be expensive and would further fragment the

Natural Area, which has already been fragmented by two other 4-lane roadways and bridges. Construction would cause additional disturbance to the forested area along the creek in the Natural Area and to the waters of the creek. The second option, developing an access corridor across TVA property and Poplar Creek, would require an even larger bridge than the first option, and would require TVA's cooperation.

Option 3, widening and paving the gravel road, would also result in significant fragmentation, by separating the entire Natural Area along the creek from the hundreds of undisturbed acres on McKinney Ridge. The convergence of this Natural Area and McKinney Ridge currently supports the breeding of a number of bird species of conservation concern, according to breeding bird surveys conducted by Partners and Flight and the Tennessee Wildlife Research Agency Partners in Flight along this trail over the past seven years. The area immediately adjacent to this particular portion of the trail has year after year been demonstrated to contain breeding grounds for no less than six bird species that are on Partners in Flight National Watch List—Cerulean Warbler (*Dendroica cerulea*), Wood Thrush (*Hylocichla mustelina*), Kentucky Warbler (*Oporornis formosus*), Prairie Warbler (*Dendroica discolor*), Blue-winged Warbler (*Vermivora pinus*), and Prothonotary Warbler (*Protonaria citrea*). Concern for the Cerulean Warbler is particularly high nationwide (see 6. below). Furthermore, disturbance of this trail would lead to the loss of additional Oak Ridge Reservation land and a popular section of the 6-mile North Boundary Greenway trail, used for hiking, bicycling, birdwatching, and other recreation.

RECOMMENDATION:

DOE should revise the EA to address the impacts of developing access to Development Area 4, in view of new information that has surfaced, and new decisions that have been made, since the original ED-1 EA. Furthermore, in view of the magnitude of the environmental impacts that we expect to be associated with developing this area, we ask that (1) this area and adjacent exclusion areas be excluded from the proposed transfer action and (2) the MAP be amended to exclude this area from development under the existing lease with CROET.

- 6. DOE should revise the EA to acknowledge the presence of the Cerulean Warbler on Parcel ED-1 and should revise the Mitigation Action Plan to prevent adverse impacts to this species.**

Among the purposes of the Addendum are to “2. Determine if changes to the MAP are warranted...” and “3...defining when mitigation is necessary.” One piece of information—that is not mentioned in the original MAP six years ago nor in either document here—is the well-documented presence of the Cerulean Warbler on the edge and within the ED-1 Exclusion Zone for four years in a row during the breeding season. This species is already state-listed as “In Need of Management,” and upgrading its state status to “threatened” is being reviewed by the Tennessee Wildlife Resources Agency. Its status is currently being reviewed by the U. S. Fish and Wildlife Service to determine whether it needs to be federally-listed (Steven Alexander, U.S. Fish and Wildlife Service, Cookeville, TN, personal communication).

The presence of this species has not been recorded on the bird monitoring point counts conducted under contract to CROET within the routes established through the Exclusion Zone, and hence was not mentioned in this Addendum. However, additional highly pertinent data exists that has not been reported here. This species has been recorded at the identical location on the edge of, and within, the Exclusion Zone on the North Boundary Greenway trail in the vicinity of East Fork of Poplar Creek (Knight, 1999, Knight, 2000, TWRA, 2001; Robert and Leigh Loveday and J. D. Joslin, 2002, personal communication-see REFERENCES CITED for details). Such "site fidelity" by this species for four years in a row is indicative that this species is breeding along this greenway trail on the edge of the exclusion zone.

Any attempt to widen, pave, and/or increase vehicular traffic on this greenway trail to provide access to Parcel 4 of the ED-1 area would surely disturb and harass this species to the point of interfering with breeding. It would also further fragment this area, making this species much more vulnerable to Brown-headed Cowbird parasitism, to which is known to be susceptible.

In this context, it should be noted that the recent Executive Order pertaining to the International Migratory Bird Treaty Act (E.O. 13186, published in the Federal Register January 17, 2001) instructs all federal agencies to take reasonable actions to minimize impacts on migratory birds. The order also instructs all federal agencies to establish MOUs with the U.S. Fish & Wildlife Service to achieve this goal. Most specifically, the U. S. Fish & Wildlife Service has determined that bird species included in Partners in Flight's Birds of Conservation Concern 2001 Report be deemed priorities for conservation actions by all federal agencies. Furthermore, these lists will be consulted prior to any actions taken on federal lands that may impact migratory bird habitat.

The Cerulean Warbler, along with 5 other species mentioned above in item (5), is considered by the USFWS as a "Species of Management Concern." Hence special efforts should be taken to avoid incidental federal actions that might result in the take of this and these other five species.

RECOMMENDATION:

The presence of breeding Cerulean Warblers—a state-listed species, and one being currently considered for federal listing— was not considered in the original MAP, nor has it been mentioned in this Addendum. This species has been present for four consecutive breeding seasons adjacent to the Natural Area and along the most probable access pathway to Parcel 4. Its presence further argues for altering the MAP to exclude the 45-acre Parcel 4 from development and to include it as part of the Natural Area.

Page-specific Comments

EA Addendum, page 8, lines 12-14. Is the study cited here the report known as the "Fluor Daniel study"? A reference citation should be provided.

EA Addendum, Section 3.1, page 8, lines 31-42. In addition to the land use changes mentioned here, this "Land Use" section should mention the designation of the North Boundary Greenway adjacent to Parcel ED-1.

EA Addendum, Section 3.4, pages 10-11. This section describes various utility upgrades "planned" by CROET, the city, or other entities. As local residents, we are aware that some of these "plans" are not yet budgeted by anyone, and probably could be called "long-range intentions" or "dreams." To help DOE decisionmakers and the public differentiate actual commitments to development from intentions that are contingent on other actions (such as CROET's hopes of obtaining additional DOE land for development in the future), please indicate who "plans" each of the upgrades that are mentioned and identify the source of the information. (Comment specifically applies to lines 24-25 on page 10, lines 6-7 on page 11, lines 13-15 on page 11, and lines 23-24 on page 11.)

MAP - Section 3.1.3. Page 11, paragraph 3 in section. It has been our understanding that the Horizon Center covenants require (not merely recommend) the use of native plants in landscaping. This is important for effective mitigation of ecological impacts. Therefore, revise the MAP to indicate that this is a requirement, not a recommendation.

MAP - Section 3.1.3. Page 11, paragraph 4 in section (next to last paragraph on page). We have observed that tall fescue, identified as an invasive pest plant species in Tennessee, has been planted in lawn areas of the Horizon Center in violation of mitigation requirements. In addition to stating that annual rye grass and clover should be used in revegetating construction sites, the MAP should specify that tall fescue is not to be planted in the future.

MAP - Section 3.1.3. Page 11, paragraph 5 in section (last paragraph on page). It appears that the only restorative action CROET would be required to take to protect the ecological/botanical integrity of the Natural Area would be to try to remove exotic/invasive plants encroaching on the sites of sensitive plant species. This is hardly sufficient to meet the objectives of the MAP. To be effective in protecting the integrity of the Natural Area, incursion and spread of exotic/invasive plants should be controlled throughout the Natural Area, not just in the vicinity of a few protected species.

REFERENCES CITED

Knight, R. L. 1999. The season report. *The Migrant* (A Quarterly Journal of Ornithology published by The Tennessee Ornithological Society):70:133.

Knight, R. L. 2000. The season report. *The Migrant* 71:122.

T.W.R.A. 2001 (Tennessee Wildlife Resources Agency). Partners in Flight Breeding Bird Survey for the Oak Ridge Reservation, May-June, 2001. Nashville, Tennessee.

Robert and Leigh Loveday and J. D. Joslin, 2002. Details: J.D. Joslin saw and heard an adult male Cerulean Warbler singing at approximately 9 a.m., May 27, on the North Boundary Trail of the Oak Ridge Reservation, approximately 100 m from East Fork Poplar Creek on the boundary of the MAP Exclusion Zone for Parcel ED-1. Robert and Leigh Loveday separately heard the same species singing on the same trail at

approximately noon of the same day (May 27). J. D. Joslin again saw and heard an adult male Cerulean Warbler at approximately 10:30 am, June 2, about 80 yards from the previous sighting on the same trail at the Exclusion Zone boundary and 20 yards from East Fork Poplar Creek. All sightings were reported on the Tennessee Birdwatchers Internet list-serve (tn-birds@freelist.com). (Partners in Flight, and most breeding surveys, consider that male birds singing during the period from May 20 to July 1 represent likely breeding birds marking a territory.)